

UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

HERIBERTO GUADALUPE-MERCADO,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

Civil No. 05-1799 (JAF)

(Criminal No. 00-048)

O R D E R

Petitioner, Heriberto Guadalupe-Mercado, requests a certificate of appealability¹ from this court to appeal our denial on January 12, 2006, of his 28 U.S.C. § 2255 petition. See 28 U.S.C. § 2253(c)(2) (1996). A certificate of appealability may be granted only upon a substantial showing of the denial of a constitutional right. 28 U.S.C. §§ 2253(c)(2) and (3) (1996).

Upon reviewing the record, we find Petitioner's claim entirely insubstantial for the reasons stated in our Opinion and Order of January 12, 2006, Docket Document No. 12. Accordingly, we **DENY** Petitioner's request for a certificate of appealability.

IT IS SO ORDERED.

San Juan, Puerto Rico, this 22nd day of February, 2006.

s/José Antonio Fusté
JOSE ANTONIO FUSTE
U. S. District Judge

¹On February 13, 2006, Petitioner filed a "Notice of Appeal" before this court, Docket Document No. 14, which contained the request for a certificate of appealability which we address herein.